

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

PLAINFIELD DIRECT INC., a Delaware
corporation, and CUNEO CAPITAL
PARTNERS I LLC, a Connecticut limited
liability company,

Plaintiffs,

vs.

PENTA WATER COMPANY, INC., a
California corporation,

Defendant.

CASE NO. 08cv1350-LAB (NLS)

ORDER OF DISMISSAL

On November 9, 2009, this action was automatically stayed because of Defendant's bankruptcy. The Court's order staying the case required Defendant to file a notice as soon as bankruptcy proceedings ended. Except for a change of address Defendant's counsel filed in the docket on May 5, 2010, the parties filed nothing since that time.

The Court on April 2, 2013 ordered Plaintiffs to file a notice apprising the Court of the status of their claims, within 14 calendar days. The order cautioned Plaintiffs that if they failed to file a notice, this action would be dismissed without prejudice. Since then, they have filed nothing.

Because Defendant's bankruptcy petition was filed in this District's bankruptcy court, the Court has reviewed the docket in that case, *In re Penta Water Company, Inc.*, 09-15145-

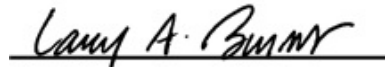
1 LT11. Although the briefing does not clearly identify the connection between the claims dealt
2 with in the bankruptcy action and Plaintiffs' claim in this case, it appears the bankruptcy court
3 approved a settlement between Plaintiffs (or their successors) on the one hand, and Penta
4 Water on the other concerning a loan. (See Docket no. 296 in *In re Penta Water*.) This action
5 sought to collect on an unpaid loan of about the same amount, and it may have been the
6 same loan. The last docket item in the bankruptcy case was an amended postconfirmation
7 report filed October 31, 2012.

8 In short, the proceedings recorded in the bankruptcy docket suggest that Plaintiffs
9 may have avoided filing the status notice because their claims have already been dealt with
10 in the bankruptcy case and Plaintiffs are not prepared to litigate them further in this action.

11 This action is therefore **DISMISSED WITHOUT PREJUDICE**.

12 **IT IS SO ORDERED.**

13 DATED: April 17, 2013

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15 **HONORABLE LARRY ALAN BURNS**
16 United States District Judge
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